

EXHIBIT B

he JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by the rules of Court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the Civil Docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
LANDIS + GYR, INC.

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF NCC, DE
(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS
ELSTER ELECTRICITY LLC

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT NCC, DE
(IN U.S. PLAINTIFF CASES ONLY)

(c) ATTORNEY'S (Firm Name, Address, and Telephone Number)

Rudolf E. Hutz (Del. Bar No. 484)
N. Richard Powers (Del. Bar No. 494)
Oleh V. Bilynsky (Del. Bar No 3604)
Connolly Bove Lodge & Hutz LLP
1007 N. Orange Street, P.O. Box 2207
Wilmington, DE 19899,
(302)-658-9141

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- ☐ U. S. Government Plaintiff
☐ U. S. Government Defendant
☒ Federal Question (U. S. Government Not A Party)
☐ Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

	PTF	DEF	PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 14
Citizen of Another State	<input type="checkbox"/>	<input type="checkbox"/>	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 15
Citizen or Subject of a Foreign Country	<input type="checkbox"/>	<input type="checkbox"/>	Foreign Nation	<input type="checkbox"/> 16

IV. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	PERSONAL INJURY	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 366 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus: General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Other	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal <input type="checkbox"/> 443 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

This is an action under 28 U.S.C. §§ 2201 and 2202 for a declaratory judgment that plaintiff has complied with and defendant has not complied with, the terms of a patent license agreement entered as part of settlement of C.A. 97-417 KAJ

VII REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$** declaratory relief **CHECK YES only if demanded in complaint:** **JURY DEMAND:** ☒ YES ☐ NO

VIII RELATED CASE(S) IF ANY (See instructions) **JUDGE** Jordan **DOCKET NUMBER** 97-417 KAJ

DATE 2/16/06 **SIGNATURE OF ATTORNEY OF RECORD** Oleh Bilynsky

FOR OFFICE USE ONLY
RECEIPT # **AMOUNT** **APPLYING IFP** **JUDGE** **MAG. JUDGE**
JS 44 Reverse (Rev. 12/96)

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

----- X

LANDIS+GYR INC.,	:	Civil Action No.
Plaintiff,	:	
v.	:	
ELSTER ELECTRICITY LLC,	:	COMPLAINT FOR DECLARATORY
Defendant.	:	JUDGMENT AND BREACH OF
	:	CONTRACT

----- X

Plaintiff, Landis+Gyr Inc., as and for its Complaint, hereby alleges as follows:

THE PARTIES

1. Plaintiff, Landis+Gyr Inc. ("Landis+Gyr"), is a Delaware corporation, with a principal place of business at Lafayette, Indiana.

2. Defendant, Elster Electricity LLC ("Elster"), is a Delaware Corporation, with offices at Raleigh, North Carolina.

JURISDICTION AND VENUE

3. This is a civil action for a declaratory judgment under the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

4. Jurisdiction over the parties and the subject matter is established by this Court's Stipulation and Order of Dismissal ("Order"), dated October 26, 1998, wherein the Court retained jurisdiction. Specifically, the Order states: "This Court retains jurisdiction over the parties and the subject matter for the purpose of enforcing the Settlement Agreement and the Patent Cross-License Agreement executed in connection therewith, both of which are expressly

incorporated herein by reference.” A true and complete copy of the Order is attached to this Complaint as Exhibit 1.

**FIRST CAUSE OF ACTION
DECLARATORY JUDGMENT OF COMPLIANCE
WITH PROVISIONS OF PCLA**

5. Plaintiff incorporates by reference the allegations of paragraphs 1-4 as if fully set forth herein.

6. The Settlement Agreement resolved a patent dispute between the predecessors-in-interest of Landis+Gyr and Elster, and includes a Patent Cross-License Agreement (PCLA) which requires Landis+Gyr to pay royalties to Elster for Landis+Gyr products which fall under any one of six specified categories.

7. On July 21, 2005, Elster served written notice to Landis+Gyr, alleging breach of the PCLA due to non-payment of royalties due for sales of meters that allegedly fall within the electricity meter definition in Section 1.6(b) of the License Agreement.

8. On January 19, 2006, Elster filed a Motion in this Court alleging that Landis+Gyr breached the PCLA by failing to “abide by” the audit provisions therein.

9. Landis+Gyr has fully complied with all the provisions of the PCLA and has not breached the PCLA.

10. An actual, justiciable controversy exists between Landis+Gyr and Elster regarding breach of the PCLA.

11. Landis+Gyr seeks a declaration by this Court that Landis+Gyr has fully complied with and has not breached the provisions of the PCLA raised by Elster in its Notice Letter.

SECOND CAUSE OF ACTION
BREACH OF CONTRACT

12. Plaintiff incorporates by reference the allegations of paragraphs 1-11 as if fully set forth herein.

13. Section 12.1 of the PCLA says that Elster's "sole and exclusive remedy for claims pertaining to royalties due hereunder is a suit for recovery of the monetary amounts specified in Section 11.2"

14. Section 12.2 of the PCLA says that Elster's "sole and exclusive remedy for any other alleged breach shall be a suit for recovery of such actual damages as are caused by the breach."

15. Section 7.1 of the PCLA says that all proceedings "relating to the subject matter hereof shall be maintained in the District Court of Delaware."

16. Thus, the PCLA requires Elster to file a complaint in the District Court of Delaware "for claims relating to royalties due" under the PCLA.

17. Instead of initiating a suit as required by the PCLA, Elster instead filed a motion under the original case. This is a breach of the PCLA.

18. Elster's breach of the PCLA has caused actual damages to Landis+Gyr, including the incursion of legal fees to respond to Elster's improper motion.

PRAYER FOR RELIEF

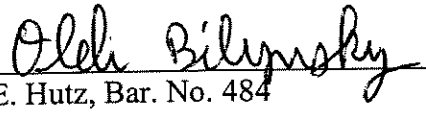
WHEREFORE, Plaintiff Landis+Gyr prays for judgment as follows:

- A. That this Court declare that Landis+Gyr has not breached the PCLA;
- B. That this Court declare that Elster has breached the PCLA; and
- C. That this Court award Landis+Gyr its costs, expenses, reasonable attorneys' fees and such other and further relief as this Court may deem just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury.

Dated: February 6, 2006


Rudolf E. Hutz, Bar. No. 484
N. Richard Powers, Bar. No. 494
Oleh Bilynsky, Bar. No. 3604
CONNOLLY BOVE LODGE & HUTZ LLP
1007 North Orange Street
P.O. Box 2207
Wilmington, Delaware 19899-2207

And

Of Counsel:
James M. Bollinger
Steven D. Underwood
MORGAN, LEWIS & BOCKIUS LLP
101 Park Avenue
New York, New York 10178
(212) 309-6000

Counsel for Plaintiff Landis+Gyr Inc.

EXHIBIT 1

(WED) 10. 28 '98 11:42/ST. 11:37/NO. 4261979626 P 2

FROM MNAOT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ABB POWER T&D COMPANY, INC. §
§
Plaintiffs, §
§
v. § Civil Action No. 97-417-MMS
§
LANDIS & GYR UTILITIES §
SERVICES HOLDINGS, INC., §
LANDIS & GYR UTILITIES §
SERVICES, INC. and §
ELECTROWATT AG, §
§
Defendants. §

STIPULATION AND ORDER OF DISMISSAL

Pursuant to Federal Rule of Civil Procedure 41, the claims of Siemens Metering Ltd. ("SML") and Siemens Power Transmission and Distribution LLC ("ST&D") against ABB Power T&D Company Inc. ("ABB") and the claims of ABB against SML and ST&D are hereby dismissed with prejudice, according to the Settlement Agreement between the parties. The claims of Landis & Gyr Utilities Services Holdings, Inc. ("L&GUSH"), Landis & Gyr Utilities Services, Inc. ("L&GUS") and Electrowatt AG ("Electrowatt") against ABB and the claims of ABB against L&GUSH, L&GUS and Electrowatt are hereby dismissed without prejudice, according to the Settlement Agreement between the parties.

Each party to bear its own costs, expenses and attorney fees.

This Court retains jurisdiction over the parties and the subject matter for the purpose of enforcing the Settlement Agreement and the Patent Cross-License Agreement

(WED) 10. 28 '98 11:42/ST. 11:37/NO. 42619/9626 P 3

FROM MNACT.

executed in connection therewith, both of which are expressly incorporated herein by reference.

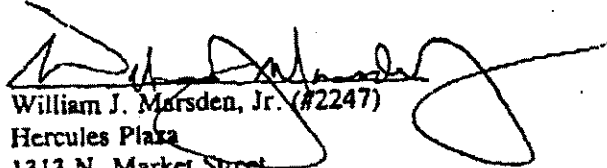
MORRIS, NICHOLS, ARSHT &
TUNNELL

POTTER ANDERSON & CORROON



Donald F. Parsons, Jr. (#437)
Karen Jacobs Loudon (#2881)
1201 North Market Street
P.O. Box 1347
Wilmington, DE 19899
(302) 658-9200

Counsel For Plaintiff
ABB POWER T&D COMPANY



William J. Marsden, Jr. (#2247)
Hercules Plaza
1313 N. Market Street
P.O. Box 951
Wilmington, DE 19899-0951
(302) 984-6000

Counsel For Defendants
LANDIS & GYR UTILITIES SERVICES
HOLDINGS, INC., LANDIS & GYR
UTILITIES SERVICES, INC.,
ELECTROWATT AG, SIEMENS METERING LTD.
and SIEMENS POWER TRANSMISSION AND
DISTRIBUTION LLC

SO ORDERED this 21st day of Oct., 1998.


United States District Court Judge

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